

TRAINING BULLETIN

A PUBLICATION OF THE SAN DIEGO POLICE DEPARTMENT

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TRAINING ON SAN DIEGO MUNICIPAL CODES SDMC 52.1003 & 52.1004

I. PURPOSE

To provide direction for officers enforcing San Diego Municipal Code sections 52.1003 or 52.1004, regarding a buffer zone and noise limitations at Health Care Facilities, Places of Worship and School Grounds and provide background information on the California FACE Act (PC 423 – 423.6).

II. BACKGROUND

The [California Freedom of Access to Clinic and Church Entrances \(FACE\) Act \(PC 423 through 423.6\)](#) requires that people have access to reproductive healthcare services and the freedom to practice their religion safely, confidentially, and in a timely manner, without harassment, threats, or fear of bodily harm. These laws specifically prohibit the use of violence or non-violence to prevent people from accessing reproductive health facilities and religious facilities. Vandalism against either type of facility is also prohibited.

PC 423.2 (g) and (h) specifically state that persons cannot use recording devices and cameras to obtain nonconsensual video, recordings or photos for the purpose of intimidation against employees, patients, or attendees of reproductive health services within 100 feet. The laws also states that those videos, recordings, or photos cannot be published or uploaded to any forum or manner, including social media, if obtained in violation of PC 423.2(g) with specific intent for the purpose of intimidation against employees, patients, or attendees of reproductive health services.

Effective on July 11, 2024, the San Diego City Council adopted updates to the [“Public Access to Health Care Facilities, Places of Worship or Schools Ordinance”](#) which states that all persons in the City of San Diego have a Constitutional right to privacy in accessing healthcare, including reproductive health services, to exercise religion, and to access equal educational opportunities, and that intentional efforts to harass or prevent a person from exercising these rights are contrary to the interests of the people of San Diego.

The Council included that every person in the City of San Diego has the constitutional right to assemble peaceably and to exercise free speech rights. **It is the purpose of the ordinance to strike a balance between protecting the rights of those who seek access to healthcare, to practice their religion, and access educational services, while also protecting the rights of those who wish to express themselves.**

III. DEFINITIONS (As Listed in SDMC 52.1002)

The following definitions apply to the Ordinance:

- A. *Consent* means to give permission through words or acts to what another person proposes through words or acts.
- B. *Entrance* and *exit* mean any door, gate, opening, or intersection of the public right-of-way and a private walk or path leading to a *health care facility, place of worship, or school grounds*, used by persons to gain access to or leave the premises of a *health care facility, place of worship, or school grounds*.
- C. *Harass* and *harassment* mean engaging in a knowing and willful actions or course of conduct directed at a specific person or persons that would seriously alarm or aggravate, cause substantial distress to, intimidate, terrorize, threaten, or torment a reasonable person. *Harassment* does not include consensual conversations or displaying a sign from more than eight feet away from a person or persons. *Harassment* includes approaching or following a person with the intent to *harass* once the person has indicated they do not want to be approached or followed; intentionally touching or causing physical contact with a person without that person's consent; and using violent or threatening gestures toward a person.
- D. *Health care facility* means any medical or health facility, hospital, or clinic within the City that is licensed as a health care facility under state law or any building, office, or other place within the City regularly used by any health care provider licensed under California law to provide medical, nursing, counseling, referral, information, or advice to patients.
- E. *Intimidate* means use of credible threats of violence, oppression, or coercion with the intent to prevent a person from accessing a health care facility, place of worship, school grounds, or a parking lot.
- F. *Obstruct* means making ingress to or egress from a *health care facility, place of worship, school grounds, or a parking lot* impassable or unreasonably difficult or hazardous. *Obstruct* includes intentionally blocking or interfering with the safe or free passage of pedestrians or vehicles by any means, intentionally causing a pedestrian to take evasive action to avoid physical contact, and placing signs, tables, chairs, or other objects in a manner that blocks the flow of pedestrian traffic.

- G. *Parking lot* means property owned, leased, occupied, or otherwise held out to the public by a *health care facility, place of worship,* or school as a place where a person can park a vehicle for the purpose of accessing the *health care facility, place of worship,* or *school grounds.*
- H. *Place of worship* means a place in which religious worship, as defined under California law, is conducted.
- I. *School grounds* means the building or buildings set aside for purposes of giving instruction on those courses of study required by the California Education Code or maintained pursuant to standards set by the State Board of Education, or in which such instruction is actually given, plus any grounds surrounding the school that are enclosed by a fence, wall, hedge, or other manner of enclosure. *School grounds* does not include the grounds associated with a vocational or professional institution of higher education, including a community or junior college, college, or university and does not include a private residence where home schooling activities occur.

IV. **PROCEDURES**

SDMC 52.1003 through SDMC 52.1006 of the San Diego Municipal Code state the following:

1. **SDMC 52.1003 – Establishment of Buffer Zone at Entrances and Exits to Health Care Facilities, Places of Worship, and School Grounds**
- (a) **Obstructing Access.** No person shall obstruct an entrance or exit or access to a parking lot at a health care facility, place of worship, or school grounds.
- (b) **Harassment and Intimidation Prohibited.** Within a radius of 100 feet of a health care facility, place of worship, or school grounds, no person shall:
- (1) **approach within eight feet of a person** in the public right-of-way or sidewalk area who is seeking to enter or exit a health care facility, place of worship, or school grounds to harass or intimidate that person; or
- (2) harass or intimidate a person in the public right-of-way or sidewalk area who is seeking to enter or exit a health care facility, place of worship, or school grounds.
- (c) **Consent Required.** Within a radius of 100 feet of a health care facility, place of worship, or school grounds, unless the person or motor vehicle occupant consents, no person shall:

- (1) knowingly and willfully approach **within eight feet** of a person in the public right-of-way or sidewalk area who is seeking to enter or exit a health care facility, place of worship, or school grounds, to:
 - (i) pass a leaflet or handbill to that person;
 - (ii) display a sign to that person; or
 - (iii) engage in oral protest, education, or counseling.
- (2) knowingly and willfully approach **within eight feet** of an occupant of a motor vehicle seeking to enter or exit a parking lot, to:
 - (i) pass a leaflet or handbill to the motor vehicle occupant;
 - (ii) display a sign to the motor vehicle occupant;
 - (iii) engage in oral protest, education, or counseling.

- (d) Measuring Eight Feet. For purposes of this Division, eight feet shall be measured from the extension of the body of the person seeking to enter or exit a health care facility, place of worship, or school grounds or the exterior of the occupied motor vehicle seeking to enter or exit a parking lot to the extension of the body of, or any sign or object held by, another person.
- (e) Measuring 100 Feet. For purposes of this Division, 100 feet shall be measured from the main entrance door, or if the property is fenced and gated then from the main entrance gate, of the health care facility, place of worship, or school grounds.
- (f) Exemptions. Section 52.1003 does not apply to: law enforcement or public safety officials acting in the scope of their employment; and employees, agents, or volunteers of the health care facility, place of worship, or school or school district operating on school grounds acting within the scope of their employment, agency, or volunteer service.

(c) **SDMC 52.1004 - Noise Limitations**

- (a) Within a radius of **100 feet** of a health care facility, place of worship, or school grounds, no person shall:
 - (1) Make, or cause to be made, any disturbing, excessive, or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitivities; or

- (2) Make, or cause to be made, any noise which unreasonably interferes with the workings of a health care facility, place of worship, or school; or
 - (3) Use loud speaking amplifiers or similar devices in a manner that emits a sound level exceeding **55 decibels** any point ten feet or more from the noise source.
- (b) Section 52.1004 applies from **one hour before** until **one hour after** the posted business hours of the health care facility, place of worship, or school.
 - (c) This prohibition does not apply when loud speaking amplifiers are operated by law enforcement or public safety officials acting in the scope of their employment.
- (d) **SDMC 52.1005 – Signage**

Nothing in this Division shall prevent a health care facility, place of worship, or school or school district operating on school grounds from posting signage on property under its control stating the requirements of this Division. Posting signage is not required for this Division to be effective or enforceable. Signage shall comply with any other applicable requirements of this Municipal Code.

(e) **SDMC 52.1006 - Remedies**

The Ordinance provides a private, civil remedy for those who have been aggrieved and may also be enforced as a criminal violation. For criminal enforcement, Officers should refer to SDMC 52.1006(d):

- (4) **Any violation of section 52.1003(a) or (b) shall constitute a misdemeanor.** A first conviction for violation of section 52.1003(a) or (b), shall be punishable by a fine of not more than \$500 or by imprisonment in the County Jail for a period of not more than three months, or by both fine and imprisonment. Each subsequent conviction for violation of section 52.1003(a) or (b) shall be punishable by a fine of not more than \$1000 or by imprisonment in the County Jail for a period of not more than six months, or by both fine and imprisonment.
- (5) A law enforcement official may order any group of two or more persons who continue to violate this Division after a verbal warning to move to an area at least 100 feet away from any entrance or exit to a health care facility, place of worship, or school grounds. **Section 52.1006(e) shall apply from one hour before until one hour after the posted business hours of the health care facility, place of worship, or school operating on school grounds.**

NOTE: This section of the law allows, but does not require, officers to move the subjects outside of the zone of violation. Officers should exercise discretion when using this section and should evaluate the totality of the circumstances before making the movement and should call a supervisor to the scene, when feasible and as officer safety permits. This movement does not negate the ability of the officer to conduct enforcement for a violation(s).

IV. EXEMPTION FROM ENFORCEMENT

Law enforcement exemptions from the above listed laws are highlighted below:

- A. Section 52.1003 does not apply to:
 - 1. Law enforcement or public safety officials acting in the scope of their employment; and
 - 2. Employees, agents, or volunteers of the health care facility, place of worship, or school or school district operating on school grounds acting within the scope of their employment, agency, or volunteer service.
- B. Section 52.1004 does not apply to:
 - 1. This prohibition does not apply when loud speaking amplifiers are operated by law enforcement or public safety officials acting in the scope of their employment.

Officers are encouraged to visit City of San Diego website for further details:

[Article 2: Police — Police Regulations — Offenses Against Government \(sandiego.gov\).](#)